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# A BILL FOR AN ACT

RELATING TO BEACH PROTECTION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that Hawaii's beaches are  
2 important and unique components of the array of natural  
3 resources that make our islands a special place for our  
4 residents and an attractive destination for visitors. Recent  
5 studies by researchers at the University of Hawaii indicate that  
6 our beaches are disappearing at an alarming rate, with seventy  
7 per cent of beaches undergoing chronic erosion, over thirteen  
8 miles of beach completely lost to erosion, and inappropriate  
9 shoreline development over the past century. Because of the  
10 growing demand for the use of beaches, the State needs to  
11 reinvest in its beaches as one of its important and valuable  
12 natural resources to conserve and restore these important assets  
13 by more efficiently distributing limited financial resources.

14       The purpose of this Act is to:

15       (1) Allocate transient accommodations tax revenues to the  
16       special land and development fund and beach



1 restoration and conservation special fund to finance  
2 restoration and conservation activities;

3 (2) Effectively develop and implement plans to slow the  
4 degradation of our beaches; and

5 (3) Restore beaches through the coordination of activities  
6 involving the counties and the formation of public-  
7 private partnerships.

8 SECTION 2. Section 171-19, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10 "(a) There is created in the department a special fund to  
11 be designated as the "special land and development fund".  
12 Subject to the Hawaiian Homes Commission Act of 1920, as  
13 amended, and section 5(f) of the Admission Act of 1959, all  
14 proceeds of sale of public lands, including interest on deferred  
15 payments; all moneys collected under section 171-58 for mineral  
16 and water rights; all rents from leases, licenses, and permits  
17 derived from public lands; all moneys collected from lessees of  
18 public lands within industrial parks; all fees, fines, and other  
19 administrative charges collected under this chapter and chapter  
20 183C; a portion of the highway fuel tax collected under chapter  
21 243; all moneys collected by the department for the commercial



1 use of public trails and trail accesses under the jurisdiction  
2 of the department; transient accommodations tax revenues  
3 collected pursuant to section [~~237D-6.5(b)(2)~~], 237D-6.5(b)(5);  
4 and private contributions for the management, maintenance, and  
5 development of trails and accesses shall be set apart in the  
6 fund and shall be used only as authorized by the legislature for  
7 the following purposes:

- 8 (1) To reimburse the general fund of the State for  
9 advances made that are required to be reimbursed from  
10 the proceeds derived from sales, leases, licenses, or  
11 permits of public lands;
- 12 (2) For the planning, development, management, operations,  
13 or maintenance of all lands and improvements under the  
14 control and management of the board, including but not  
15 limited to permanent or temporary staff positions who  
16 may be appointed without regard to chapter 76;
- 17 (3) To repurchase any land, including improvements, in the  
18 exercise by the board of any right of repurchase  
19 specifically reserved in any patent, deed, lease, or  
20 other documents or as provided by law;



- 1           (4) For the payment of all appraisal fees; provided that  
2           all fees reimbursed to the board shall be deposited in  
3           the fund;
- 4           (5) For the payment of publication notices as required  
5           under this chapter; provided that all or a portion of  
6           the expenditures may be charged to the purchaser or  
7           lessee of public lands or any interest therein under  
8           rules adopted by the board;
- 9           (6) For the management, maintenance, and development of  
10          trails and trail accesses under the jurisdiction of  
11          the department;
- 12          (7) For the payment to private land developers who have  
13          contracted with the board for development of public  
14          lands under section 171-60;
- 15          (8) For the payment of debt service on revenue bonds  
16          issued by the department, and the establishment of  
17          debt service and other reserves deemed necessary by  
18          the board;
- 19          (9) To reimburse the general fund for debt service on  
20          general obligation bonds issued to finance  
21          departmental projects, where the bonds are designated



1 to be reimbursed from the special land and development  
2 fund;

3 (10) For the protection, planning, management, and  
4 regulation of water resources under chapter 174C; and

5 (11) For other purposes of this chapter."

6 SECTION 3. Section 171-152, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[+]~~§~~171-152[+] **General powers.** (a) In carrying out its  
9 functions under this part, the board may do all things  
10 necessary, useful, and convenient in connection with the  
11 restoration and conservation of beach lands, subject to all  
12 applicable laws, and may provide any necessary assistance to any  
13 county or nongovernmental organization in the restoration of  
14 beach lands so long as the public interest is served; provided  
15 that for beach restoration and conservation on privately-owned  
16 lands, the board shall be required to obtain authorization from  
17 affected property owners.

18 (b) The board or the board's designee, subject to this  
19 chapter and chapters 183C and 205A, shall maintain and manage  
20 beach lands restored and conserved pursuant to this part as well



1 as [a] beach restoration [~~plan~~] and conservation plans described  
2 in section 171-153, subject to available funds."

3 SECTION 4. Section 171-153, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§171-153[+] **Beach restoration [~~plan~~]** and conservation  
6 plans. (a) The department shall prepare and, from time to  
7 time, revise plans for the restoration and conservation of beach  
8 lands of the State. These plans shall [~~guide~~]:

9 (1) Guide the board in identifying those beach lands in  
10 need of restoration which have been degraded or are  
11 threatened as a result of natural or human actions  
12 [~~and shall designate~~];

13 (2) Designate suitable coastal lands for the purpose of  
14 generating revenues to carry out the purposes of this  
15 section[~~-~~];

16 (3) Include, where appropriate, county participation in  
17 the development of beach restoration and conservation  
18 plans and ongoing maintenance; and

19 (4) Include, where appropriate, the formation of a  
20 private-public partnership for the development and



1           execution of a beach restoration and conservation  
2           plan.

3           (b) In preparing these plans, the department may institute  
4 studies pertaining to the need for restoration and conservation  
5 of ~~[such]~~ beach lands and shall consider any plan relating to  
6 the restoration and conservation of ~~[such]~~ beach lands that has  
7 been prepared by any federal, state, county, or private agency  
8 or entity. The department may also institute other studies as  
9 necessary to support the development of beach restoration  
10 projects~~[,]~~ or beach conservation plans that involve more than  
11 the nourishment of beaches with sand, including ~~[the]~~:

12           (1) The development of socioeconomic profiles~~[,~~  
13           ~~environmental]~~;

14           (2) Environmental studies pertaining to sand source  
15           analysis, and ecological effects of beach  
16           restoration~~[, cost-benefit]~~;

17           (3) Cost-benefit analysis for project viability~~[, and]~~;

18           (4) The effect of sea level rise on beaches; and

19           (5) ~~[coastal]~~ Coastal engineering studies including ~~[data~~  
20           ~~gathering.]~~ resource assessment, studies of beach



1           dynamics, land use plans, special management area  
2           plans, zoning ordinances, and other laws."

3           SECTION 5. Section 171-154, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "**[+]§171-154[+]** **Authority to lease coastal lands.** The  
6 board, subject to this chapter, may lease public coastal lands  
7 under the board's jurisdiction for the purpose of generating  
8 revenues to be deposited into the beach restoration and  
9 conservation **[+]special[+]** fund. Any terms and conditions  
10 imposed by the board on the lessee shall run with the land and  
11 shall be binding on the lessee's heirs, successors, and assigns.  
12 The board may seek enforcement of such terms and conditions in  
13 any court of appropriate jurisdiction."

14          SECTION 6. Section 171-155, Hawaii Revised Statutes, is  
15 amended to read as follows:

16          "**[+]§171-155[+]** **Development of public coastal lands.** On  
17 the lands subject to this part, the board may undertake  
18 appropriate development to generate revenues for beach  
19 restoration which is consistent with this chapter and chapters  
20 183C and 205A and other applicable laws. These revenues shall  
21 be deposited in the beach restoration and conservation



1   [+]special[+] fund. For purposes of this section, "development"  
2 includes:

- 3       (1) Any building or mining operation;  
4       (2) Any material change in use, intensity of use, or  
5           appearance of any structure or land, fast or  
6           submerged; or  
7       (3) The division of land into two or more parcels."

8       SECTION 7. Section 171-156, Hawaii Revised Statutes, is  
9 amended to read as follows:

10       " ~~[+]§171-156[+]~~ **Beach restoration and conservation special**  
11 **fund.** (a) There is established in the state treasury a special  
12 fund to be designated as the "beach restoration and conservation  
13 special fund" to carry out the purposes of this part. The  
14 following moneys shall be deposited into the beach restoration  
15 and conservation special fund:

- 16       (1) Proceeds from the lease or development of public  
17           coastal lands designated pursuant to a beach  
18           restoration or conservation plan, subject to the  
19           Hawaiian Homes Commission Act of 1920, as amended, and  
20           section 5(f) of the Admission Act of 1959;



(2) Proceeds from the lease of public lands pursuant to this part for an existing ~~[seawall or revetment,]~~ shoreline structure;

(3) Fines collected for unauthorized shoreline structures on state submerged land or conservation district land;

(4) Appropriations made by the legislature for deposit into this fund;

(5) Donations ~~[and]~~, contributions [made by], and matching funds to carry out beach restoration and conservation plans from private individuals or organizations for deposit into this fund;

(6) Fees collected for the processing of applications for coastal and beach erosion control projects; ~~[and]~~

(7) Transient accommodations tax revenues allocated pursuant to section 237D-6.5(b)(6); and

~~[+7+]~~ (8) Grants provided by governmental agencies or any other source.

(b) The beach restoration and conservation special fund may be used by the department for one or more of the following purposes:



- (1) Planning, designing, development, or implementation of beach restoration and conservation projects, and all things necessary, useful, and convenient in connection with the restoration and conservation of beach lands, pursuant to this part; and
- (2) Providing grants to the counties, nongovernmental organizations, and the University of Hawaii for the restoration and conservation of beach lands and for research or engineering studies necessary to support beach restoration and conservation projects, subject to this part."

SECTION 8. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Revenues collected under this chapter shall be distributed as follows, with the excess revenues to be deposited into the general fund:

- (1) \$26,500,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;

- (2) \$82,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:



1           (A) Beginning on July 1, 2012, and ending on June 30,  
2                   2015, \$2,000,000 shall be expended from the  
3                   tourism special fund for development and  
4                   implementation of initiatives to take advantage  
5                   of expanded visa programs and increased travel  
6                   opportunities for international visitors to  
7                   Hawaii;

8           (B) Of the \$82,000,000 allocated:

- 9                   (i) \$1,000,000 shall be allocated for the  
10                   operation of a Hawaiian center and the  
11                   museum of Hawaiian music and dance at the  
12                   Hawaii convention center; and  
13                   (ii) 0.5 per cent of the \$82,000,000 shall be  
14                   transferred to a sub-account in the tourism  
15                   special fund to provide funding for a safety  
16                   and security budget, in accordance with the  
17                   Hawaii tourism strategic plan 2005-2015; and

18           (C) Of the revenues remaining in the tourism special  
19                   fund after revenues have been deposited as  
20                   provided in this paragraph and except for any sum  
21                   authorized by the legislature for expenditure



1 from revenues subject to this paragraph,  
2 beginning July 1, 2007, funds shall be deposited  
3 into the tourism emergency trust fund,  
4 established in section 201B-10, in a manner  
5 sufficient to maintain a fund balance of  
6 \$5,000,000 in the tourism emergency trust fund;  
7 (3) \$103,000,000 for fiscal year 2014-2015, \$103,000,000  
8 for fiscal year 2015-2016, and \$93,000,000 for each  
9 fiscal year thereafter shall be allocated as follows:  
10 Kauai county shall receive 14.5 per cent, Hawaii  
11 county shall receive 18.6 per cent, city and county of  
12 Honolulu shall receive 44.1 per cent, and Maui county  
13 shall receive 22.8 per cent; provided that commencing  
14 with fiscal year 2018-2019, a sum that represents the  
15 difference between a county public employer's annual  
16 required contribution for the separate trust fund  
17 established under section 87A-42 and the amount of the  
18 county public employer's contributions into that trust  
19 fund shall be retained by the state director of  
20 finance and deposited to the credit of the county  
21 public employer's annual required contribution into



1 that trust fund in each fiscal year, as provided in  
2 section 87A-42, if the respective county fails to  
3 remit the total amount of the county's required annual  
4 contributions, as required under section 87A-43;

5 (4) \$3,000,000 shall be allocated to the Turtle Bay  
6 conservation easement special fund established under  
7 section 201B-8.6 for the payment of debt service on  
8 revenue bonds, the proceeds of which were used to  
9 acquire the conservation easement in Turtle Bay, Oahu,  
10 until the bonds are fully amortized; ~~[and]~~

11 (5) ~~[Of the excess revenues deposited into the general~~  
12 ~~fund pursuant to this subsection,]~~ \$3,000,000 shall be  
13 allocated ~~[subject to the mutual agreement]~~ and  
14 deposited into the special land and development fund  
15 established under section 171-19 of the [board]  
16 department of land and natural resources ~~[and the~~  
17 ~~board of directors of the Hawaii tourism authority];~~  
18 provided that the allocation shall be expended in  
19 accordance with the Hawaii tourism authority strategic  
20 plan for:



1 (A) The protection, preservation, and enhancement of  
2 natural resources important to the visitor  
3 industry;

4 (B) Planning, construction, and repair of facilities;  
5 and

6 (C) Operation and maintenance costs of public lands  
7 connected with enhancing the visitor  
8 experience[-]; and

9 (6) Beginning July 1, 2015, \$ shall be annually  
10 allocated to the beach restoration and conservation  
11 special fund established under section 171-156 until a  
12 fund balance of \$ is achieved; thereafter,  
13 funds shall be allocated to the beach restoration and  
14 conservation special fund in a manner sufficient to  
15 maintain a fund balance of \$ .

16 All transient accommodations taxes shall be paid into the  
17 state treasury each month within ten days after collection and  
18 shall be kept by the state director of finance in special  
19 accounts for distribution as provided in this subsection.



1       As used in this subsection, "fiscal year" means the twelve-  
2   month period beginning on July 1 of a calendar year and ending  
3   on June 30 of the following calendar year."

4       SECTION 9. Statutory material to be repealed is bracketed  
5   and stricken. New statutory material is underscored.

6       SECTION 10. This Act shall take effect on July 1, 2030.



**Report Title:**

Transient Accommodations Tax; Special Land and Development Fund;  
Beach Restoration and Conservation Plan; Beach Restoration and  
Conservation Special Fund

**Description:**

Expands the scope of the Department of Land and Natural  
Resources' Beach Restoration Plans and Beach Restoration Special  
Fund to include beach conservation. Allocates funds from the  
Transient Accommodations Tax for beach restoration and  
conservation. (HB444 HD3)

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